

Danvers Transfer Station – Public Hearing Site Assignment

Chairman Mr. Kowalski opened the public hearing and introduced the Board of Health Members and staff and the Public Hearing Officer, Attorney John Shea.

Chairman Kowalski read the following:

“Good evening! I am Board of Health Chairman Edmund Kowalski, a Pharmacist. I call this public hearing to order. The other members of the Danvers Board of Health are Dr. Thomas J. McLaughlin and Martha Swindell, RN. Our Director of Public Health is Peter M. Mirandi. Janell Powers is our Administrative Assistant.

Covanta Haverhill, Inc. has applied to the Danvers Board of Health for a minor modification of the July 5, 1983 site assignment for the municipal transfer station located on East Coast Road and Popes Lane in Danvers. Covanta, the operator, seeks to modify the site assignment to increase the daily waste acceptance rate from 250 tons per day of municipal solid waste (MSW) to a daily maximum of 350 tons per day of MSW. The Applicant also seeks to accept small loads of presorted recyclables for transfer to a recycling facility, and a modification of the operating hours from Monday through Friday, 7:00 a.m. to 2:45 p.m., to Monday through Saturday, 7:00 a.m. to 4:00 p.m.

This application is a minor modification as determined by the Massachusetts Department of Environmental Protection Site Assignment Regulations for Solid Waste Facilities. Under Code of Massachusetts Regulation 310 CMR 16.22(3), the Board of Health may modify the site assignment after the public notice and a public hearing.

The public hearing notice on the requested modification appeared in the Danvers Herald.

The Mass DEP site assignment regulations govern the procedures for reviewing site assignment modification applications and for conducting public hearings. Under the regulations, the Board of Health selects a Hearing Officer who is responsible for conducting the public hearing. The Board of Health has the responsibility to evaluate the evidence, to vote on whether to grant the modification, and to issue a written Decision.

It is my pleasure to introduce our Hearing Officer, John F. Shea of the Boston environmental law firm Mackie Shea O’Brien, P.C. Attorney Shea has been an environmental and land use lawyer for over 35 years. He has acted as a Hearing Officer in over 25 site assignment hearings throughout Massachusetts. Mr. Shea was selected by Best Lawyers as the 2013 Massachusetts Environmental Lawyer of the Year. I am pleased to welcome Attorney John Shea. I now turn this public hearing over to you.”

Mr. Shea welcomed everyone to the public hearing. He commended the board members for their work and professional courtesies that have been extended to him throughout this process. He stated that the Board has been aware of this modification for some time. He mentioned that Covanta will give a presentation. Mr. Shea stated that over the years, he has performed hearing officer duties all over Massachusetts. One which lasted 14 days in Andover and another that lasted 30 days in Cohasset. He feels that this should be heard and a decision be made that would not take a very long time due to his opinion that this is in fact a minor modification.

Attorney John Shea stated that a Site Assignment Hearing process is a rare thing for the Board of Health to deal with. He stated that the Board members were not around back in 1983 when the first site assignment was granted, so, in a sense, this is their first site assignment. For the folks in the audience, for many of them, this is the first site assignment for them to be participating in. He stated what he is going to do for the benefit of the Board and the public is to explain what his role as a Public Hearing Officer is, describe the site assignment process of which this is a piece, and he is going to talk about the site assignment modification process as it relates specifically to this project. Finally, I will cover some general preliminary legal matters and when he is done talking he will turn it over the applicant so they can give their presentation.

It is his responsibility as a Hearing Officer to ensure that it is a full and fair hearing on Covanta's application for a site assignment modification. That the board considers all relevant and material evidence on whether the site is suitable for the proposed increase in the maximum committed daily waste acceptance rate from 250 tons per day to 350 tons per day and for the for the expanded hours of operation. He stated that he is like a judge in a civil jury trial ruling on the admissibility of evidence and the procedural issues. He is charged with making sure there is an orderly presentation of evidence and argument. He may also question witnesses to help produce a clear and comprehensive record.

Unlike a civil judge, he cannot dismiss the application or decide the case as a matter of wrong for the submission of judgment. The Mass DEP regulations are very general in describing his authority and he really does not know what the limits of his powers are. He can only tell you that in that 30 day hearing in Cohasset, the lawyers started bickering almost uncontrollably and there must have been 10 lawyers and many many parties in the case and he threatened to fine them on the spot and suspend hearing until they paid the fines. Undeterred by his warning, one of the lawyers stood up and said you can't do that and ironically later became his partner. The lawyer said you don't have the authority to fine me and I replied it was the time of the OJ trial, if Judge Eto can fine the dream team, I can fine you and they started to calm down. He stated that if he is a civil judge, the Board is the jury charged with making the final decision on the modification request and to use a baseball analogy as we anxiously endure another Red Sox series, he is the home plate umpire, he calls all strikes and outs. The Board of Health is Bud Selig, the Commissioner of Baseball, who gets the final word in an ordinance case.

He added that he pledged that he will conduct the hearing impartially, he is not related to any Board Member or any party in the case, he is not an employee or agent of the applicant, and he has no financial interest in the Board's decision. In July we had a brief telephone consultation with Peter and he is going to refer to the applicant as CEC. They discussed certain notice and procedural issues and whether or not there may be interveners or parties in the case, it was going to help him in the planning of the case. Subsequently, on July 29th, he issued a pre-hearing order on how the notice of the public hearing for the proposed site assignment modification was to be conducted offered as guidance to the applicant.

This public hearing is being conducted in accordance with Mass General Laws, Chapter 111 sections 150A and 150A ½ which governs site assignments for solid waste facilities and it is also conducted under the Mass DEP site assignment regulations that are found at 310 CMR, code of Massachusetts regulations, which established the procedures and the criteria for submission and review of site assignment modifications and applications. It is a formalized process, very different from other meetings or hearings for local boards and commissions.

He will give you a few examples, first, he conducts the hearing instead of the chairman and that is based solely on listening to the applicant and witnesses and asking questions. He is retained by the Board of

Health but the applicant pays for his services. I am employed by the Board to conduct a fair hearing and the applicant under the regulations has to pay for his time acting as Hearing Officer. The second point, with witnesses are sworn and testify under oath and are subject to cross examination, it is very different from normal. The third point, is that general participation from the audience is not permitted under the regulations. The Board can hear only the testimony from recognized parties or participants or identified in the regulations. Now this restriction is designed to prevent free for all chaos and to focus the presentation on the site suitable criteria. He has relaxed this limitation under special circumstances and with the request and consent of the Board of Health, that they want to hear from the Town residents.

He stated let me talk about the site assignment process and give you a nutshell version of it. In a very broad sense, local control over the siting of waste facilities, goes way back to colonial times to assign certain places for the exercise of any activity that is deemed to be potentially dangerous to the public, so called noisome trades. In 1955, solid waste facilities were identified as needing special procedures, for siting. Prior to that, there were no rules or regulations it was up to the Board of Health to regulate these noisome trades that were potentially nuisance generating activities. In 1955, there was a change in the law, was Chapter 111 section 150A and it provided that no place in a city or town shall be established or operated by anyone for a solid waste facility unless that place has been assigned by the Board of Health after a proper hearing and that the Board of Health in rendering its decision could impose conditions on approval if necessary to protect the public health covered and convenience by the statute.

Now, this early version of Chapter 111 section 150A proved to be deficient in a number of ways. The least of which was its barrier to provide any criteria for the Board to reply to a proposed project to evaluate whether a site assignment should be granted. Very often, the Boards of Health did not have sufficient resources, technical on staff or financial resources to fully evaluate a proposal and there was no DEP involvement in the site process assignment. DEP's involvement came after the site assignment and there was very little formality in the site assignment process resulting in decisions that were often virtually incomprehensible and unreviewable. He recalls one site assignment that he has had which was merely a letter stating dear applicant the site is hereby assigned, that was a landfill. We have come a long way, it was that sort of bad decision making that caused the legislature in 1987 to completely revamp the process as we are operating under tonight and what the statute did was revise to strengthen the role of Mass DEP has in the site assignment process.

It required the applicant to pay substantial fees to aid the Board of Health in conducting its reviews. It directed a review under the Massachusetts Environmental Policy Act, known as MEPA that the Secretary of Environmental Affairs administered and environmental reviews are conducted by the state for certain types of projects and know instead of waiting until DEP would permit, now that review has to take place in the site assignment process and how it has already become accomplished before coming to you tonight.

The last thing was 150A 1/2, they directed DEP to promulgate regulations with the following criteria that can be applied to proposals that helped Boards of Health determine whether they should approve or disapprove the project. What we have is a site assignment process that has 3 major components: we have MEPA review, Mass DEP site suitability evaluation and the Board of Health Site Assignment Hearing.

Mr. Shea now explained Covanta's application and how it proceeded through the process. On July 5, 1983, the Board of Health granted a Site Assignment to the facility. On July 12, 1989, the Mass DEP issued a permit to allow an increase in municipal solid waste tonnage from 100 to 250 tons per day and there have been several program modifications along the way that Covanta or CEC made. MEPA reviewed the applicant in 1989 and filed an environmental notification form (ENF) evaluation form with the Secretary

of Environmental Affairs and the Secretary determined based on the information that was in the ENF, that a full blown environmental impact review (EIR) was not necessary and decisions could be made without further review. In November of 2012, CEC for Covanta filed a notice of project change (NPC) with the MEPA unit with the same modifications that are before you tonight. On December 21, 2012, The Secretary of Energy and Environmental affairs issued a Certificate that the environmental for the Notice of Project Change (NPC) and no further MEPA review was required for permitting of the modification.

On April 17, 2013, Covanta filed with the Board of Health & Mass DEP for a request of site assignment modification. These are covered in the regulations. This type of modification to modify conditions that may have been imposed in the original modification or increase daily or tonnage limits are deemed to be minor risk to the residents, has to follow this process. For the requested changes, they do not have to go back and file for a whole new application. Mr. Shea again stated that he feels they are indeed minor changes being requested, however he reiterated that the Board will make the final decision after the evidence and testimony is heard.

Mr. Shea explained how Mass DEP is required to issue site suitability and does it meet the criteria. On a minor modification, DEP is not required to give a report. We have the hearing before the Board of Health. Within 45 days from tonight, commencement of the hearing, the Board of Health must either issue an amendment to the site assignment or a written finding that the proposed changes would constitute a danger to public health safety and the environment based upon application and the siting criteria. Any appeal would be to the Superior Court. The court review is based upon the administrative record that was before the board. The materials you will receive and the testimony that you will hear would constitute the administrative record be of the hearing that is heard before us tonight. There will be no new witnesses, no new testimony, and no new documentation. Superior Court just looks at what was before the Board of Health. In addition, after obtaining a modification approval, the Applicant has to file with DEP under a different set of regulations. Covanta will have to demonstrate to DEP that the transfer station has the available capacity to see, load and store this quantity of MSW. The Board of Health and the public can be a part of the process.

The Public Notice was posted on August 8, 2013 and written notices were sent certified mail and he is satisfied that this public hearing has been properly noticed. The hearing was properly open over the hearing tonight also. The Danvers Herald Public Notice tear sheets will be put as part of evidence. Any documents received before and during the hearing will be identified as exhibits. He will identify the draft exhibit list. If the public has documentation, he will enter into evidence as well.

There are 5 documents now:

- 1 – April 17, 2013 Request for Site Assignment Modification assigned by CEC and attached to it are certified documents and certified plans.
- 2 – October 8, 2012 Letter from Peter Mirandi
- 3 – October 21, 2012 Letter from Joseph Becker
- 4 – December 21, 2012 Secretary of Environmental Affairs Certification
- 5 – Copy of Mass DEP comment letter

Exhibits

- Request for Site Assignment Minor Modification – Public Hearing - exhibit 1
- Pre-hearing Order documentation – exhibit 2
- Certified mail receipts, legal ad, Board of Health Agenda, MEPA notice – exhibit 3
- Site Assignment decision from July 5, 1983 – exhibit 4

Request to speak in opposition, received by the Board on August 28, 2013 – exhibit 5
CEC PowerPoint Presentation – exhibit 6
Site Assignment Criteria Discussion Points – exhibit 7
Testimony by Stephen M. Monaco, Mobile Estates Tenants Association – exhibit 8

Janell Powers, Clerk, will maintain the records in a box.

Mr. Shea explained that the Applicant will make their presentation. They can be cross examined by each one of the Board Members and by Peter Mirandi. There may be questions from the audience and they should be addressed to Attorney Shea. Mr. Shea added that under the regulations, general audience participation is not allowed.

Interveners are affected by the hearing. Abutters are deemed affected by the hearing. They have to file a petition to intervene. None were received.

A letter dated August 18, 2013 was received by the Board of Health on August 28, 2013 requesting the participants to speak at the public hearing. This letter was signed by Lisa Ferry, the President of the Mobile Estates Tenants Association, of 286 Newbury Street regarding the expansion of operating hours and increasing tonnage with a petition signed by 41 people requests the Board of Health to vote against the proposed modification. The tenants of the mobile park are affected. The mobile home tenants are concerned with the children's lives getting on buses on East Coast Road. The concerns are definitely nuisance impacts and impacts on safety. These persons will be participants in this public hearing. They may present testimony and argue orally at the close of the hearing and they are required to file a brief and the ending. They are not required to do so, unless Mr. Shea deems it necessary.

Mr. Shea explained that the letter of petition is from tenants, which are not abutters. Abutters are described as the land owners. They are not also a 10 citizen group. They do not own the land. They do not get to be interveners. Mr. Shea explained that individual situations can be unique. Personal stories need to be told and heard. He will be relaxed about repetition since it is not a large crowd.

Mr. Shea stated that the Applicant is welcomed to come up to present. George Drew, Operator of the Transfer Station; Phillip Jagoda and Barry Van Laarhoven, both from Civil & Environmental Consultants, Inc. (CEC) were present to present the power point presentation and request the Site Assignment Minor Modification. Mr. Shea asked the three men to raise their right hand and testify that they were telling the whole truth and nothing but the truth.

Phil Jagoda, Professional Civil Engineer stated that he put together the request for the Minor Modification. He gave Mr. Shea the Certified Return Receipt request signed cards, the cut sheet of the Public Notice in the Danvers Herald, the publication in the MEPA Environmental Journal, and copies of the power point presentation.

Facility Description

- Operated by Covanta Haverhill, Inc. (located on Town owned Landfill property)
- Transfer station provides solid waste services (collection, transfer, recycling, and hauling of municipal solid waste and recyclables)
- Current daily waste acceptance: 250 tons per day (TPD)
- Current hours of operation: Monday – Friday 7:00 a.m. – 2:45 p.m. and Saturdays during Holiday weeks

Summary of Permit History

- July 5, 1983: Site Assignment approved by Danvers BOH
- December 12, 1989: DEP permit issued to increase tonnage from 100 to 250 TPD
- July 21, 1993: DEP issued a "Permit by Rule" for current operations (amended May 16, 2001)
- December 21, 2012: Certificate for the Notice of the Project Change (NPC) issued by the Executive Office of Energy and Environmental Affairs for tonnage increase-no further MEPA review required

Transfer Station Operating History

- Well operated facility with minimal impacts to surrounding community
- No violations from Mass DEP in its 30 years operating History
- Not aware of any complaints lodged with Town of Danvers
- Serves the local communities by reducing Diesel Emissions from Trash Trucks traveling from curbside to Disposal facilities
- Hosts community collection days to help divert hazardous materials out of the solid waste stream

Proposed Minor Modification to the Site Assignment

- Change Daily Waste Acceptance from 250 TPD to 350 TPD to accommodate additional MSW but also recyclables.
- Acceptance of recyclables for transfer to a recycling facility
- Change in hours of operation: Monday – Saturday 7:00 a.m. – 4:00 p.m. will better balance traffic flow throughout the day

Projected Impacts of Modification:

- Diverting recyclables to Facility will help reduce fuel usage and thus emissions from the areas curb side collection trucks.
- Slight increase in daily traffic volume (30 truck trips per day)

Mitigation/Prevention Procedures:

- New visual buffer (vegetative or fence) to be installed between Facility and adjacent mobile home park.
- Danvers BOH agent to conduct semi-annual site visits

Required Permits

- Site Assignment Minor Modification approval from Danvers BOH (this current process)
- Permit Modification application (BWP SW07) to be submitted to the Mass DEP Solid Waste Division

Transfer Station/Landfill Parcel Map (included)

Transfer Station Existing Conditions Map (included)

Mr. Shea asked him to tell him about the recyclables? Are they mixed? Sorted? Drew replied.

Mr. Drew stated what happens in a lot of towns, they are picked up from curbside and they have to get them to a recycling center. Right now they have to travel to Newburyport from houses and they have a

facility there. By opening this up, they can bulk load them into a trailer that can take 5 curb side trucks into one trip that then is taken to Newburyport. What's the nature of throwing all into one place Mrs. Swindell asked? Drew replied that right now, single stream, one container can have cardboard paper & glass one container can have plastic and cans. They are not distinguishing at this time. They would like to bulk load into a single trailer to have one truck travel to recycling center instead of 5 small ones. Are you doing any sorting in the transfer station, Mr. Kowalski asked? Mr. Drew replied, no, just use less trucks to get from point A to point B.

Mr. Kowalski asked for clarification of the increase of trucks. Mr. Drew replied that 30 trucks means each vehicle going in is counted as 1 trip and out as 1 trip, so 30 equals 15 trips. What happens to this waste Kowalski asked? Mr. Drew replied that MSW comes in and they do their inspections. Then the waste gets bulk loaded and driven to the final destination in Haverhill or Rochester, Massachusetts depending on where it is needed. They are balancing how much waste goes into these facilities. No trash is left behind. Where will this other tonnage be generated from someone asked? Mr. Drew stated that some is from commercial business, restaurants, and department stores, Town of Danvers, and Town of Lynnfield, and Town of Melrose. Dr. McLaughlin asked if it is waste from hospitals. Mr. Drew replied that sometimes they get waste from nursing homes.

Someone asked where was the 100 tons going before? Mr. Drew replied that some pick up here and take small trucks; it will reduce vehicle use to get to a disposal facility.

Mr. Shea asked if Mr. Drew believed that there is an increase in way stream with improvement of the economy? Mr. Drew stated that he sees ups and downs and it really depends on the time of year. He added that in the summer there is more waste than in the winter. He could not answer if there was an increase in way stream with improvement of the economy.

Mrs. Swindell stated that she has been up to the site several times and has been there when trucks were waiting along the entry way. She asked what is the turnaround time? If you did combine all into one, is it more efficient? Mr. Drew replied that part of it depends on the facility that it is going to and whether or not the market is better for a product than another. The price of cardboard could be greater. Sometimes, the town may have split it up. From a transportation standpoint, it is much more efficient to transfer 25 tons in one truck, rather than 5 trucks with 5 tons in each.

Mr. Drew stated in speaking about the trucks waiting, the trucks come in and dump in the building but the other operation is the brush dump and he showed him where they are going with the brush on the map. They are working with the town to maybe find another route. If it a commercial vehicle they will get it out of there as soon as possible. He added that brush customers dump in a different manner and that will reduce wait time that you have seen in the last month or so. Mrs. Swindell stated that they do not shut the trucks off. She is thinking of the neighborhood and how much noise and pollution Mr. Kowalski added.

Mr. Drew stated that one policy that Mass DEP has been doing is posting signs for the MA law about no idling. Mr. Drew added that he is not sure that they are in place at the Danvers Transfer Station, he will have to check and see. Mr. Drew will look into that and place signs and they will use the on-site personnel at the scale house to help enforce that rule. Mr. Shea stated that Mass DEP has a new regulation designed to reduce air emissions from truck vehicles and it is a 5 minute limit on idling time. Mass DEP has been taking gradual enforcement steps of enforcing this and regulating idling. Mr. Shea explained to the Board

of Health that they can add a special condition of adding the signs and enforcing no idling. He added you can help the neighbors' concerns by conditioning this.

Mr. Mirandi stated it is important to get the solid waste off the curbs. He added on Slide 3, it doesn't specify how much more will be recyclables. It just states acceptance of recyclables for transfer to a recycling facility? Where is the limit on this? Mr. Drew stated that they cannot take in more than the 350 in tonnage. If they get their permit, the tons of recyclables are included in the 350 tons allowed. Mr. Drew added that there is technology out there where trucks are split in two and a single truck can carry ½ waste and ½ recyclables which means less truck trips.

Mr. Shea asked if there were any questions from the audience.

Mr. Stephen Monaco, who lives at the Mobile Home Park asked what is a vegetated buffer? Mr. Drew stated the Town stated that they provide a vegetated buffer or screen of some sort to establish a break between the transfer station and the Mobile Home Park. Mr. Drew stated that they are leaning to put a nice fence, maybe 8 feet tall. He added that they are not sure they can plant trees in that small space. They will work with the town so the residents don't have to see the facility. Mr. Van Laarhoven stated that the secondary benefit would be that it will offset the noise.

Mr. Stephen Monaco stated that the tenants see a burning flame nightly, is this a gas? Mr. Drew stated that it is not related to their operation. The Town operates the landfill. The flame is from a pipe that allows any waste that is decomposed to burn off. Mr. Bob Lee from Public Works for The Town of Danvers said yes, they had a problem with methane impacting homes. They installed a trench with piping to route the methane to the flare. The waste decomposes and there are vents and too much methane was escaping through the vents. The Town put a collection system in to control this. There is a flare and it comes from the closed landfill.

Mr. Stephen Monaco stated that they haven't received a notice about this. He just happened to catch it in the Salem Evening News. Mr. Shea replied that the park owner and his lawyer were not notified and it was his responsibility to notify the tenants. The Park owner is the actual abutter. The tenants are not land owners. A certified notice was mailed to the owner who did not pick it up at the post office. Mr. Stephen Monaco replied that he is not surprised. Mr. Shea added that under the statute, notices do not go to tenants. The land owner must notify the tenants. Mr. Mirandi added that he also took the initiative to contact the Director of Health in Peabody and told them to notify any abutters. Mr. Mirandi stated that the Town of Danvers does not try to slip things through; they do not operate that way.

Mr. Stephen Monaco stated that there are JRM trucks being parked on the sight (trucks & trailers), there were 5 on Saturday and trucks were leaving at 6:00 a.m. Mr. Stephen Monaco stated that the current hours are not being upheld right now. Mr. Stephen Monaco stated that we have been living with this noise for a long time. They make more noise when they are empty. Mr. Shea asked the applicant what is your reaction to Mr. Stephen Monaco for trucks entering or leaving earlier than 7:00 a.m.

Mr. Drew stated that to the best of his knowledge the scale does not operate after hours. Mr. Drew added that there are some trucks that park behind the brush dump. Mr. Stephen Monaco stated that they are parked up front, he doesn't know what is parked by the brush dump. Mr. Drew said it's not to say that they are not leaving but the waste is not coming in and out before hours that the scale is open. It's okay for trucks to be leaving. Lisa Ferry stated that trucks are in and out at 6 a.m. waiting for them to open.

Michael Benevento stated that they are the direct abutter; he owns 6 acres at the top of East Coast Road. He added that he has plans in the works to put in 9 to 10 houses on this property. It is going to be a concern of his about the noise and the smell. Michael Benevento asked about public safety, are you going to have additional staff available to assist trucks backing in and out? Mr. Drew replied there are front end loaders, and staff does work with getting the trucks in and out in the shortest amount of time. Mr. Benevento stated you don't foresee trucks lining up? Mr. Benevento stated that they are including the 100 extra tons as recyclables or waste? If it is 100 percent of solid waste, it would be more of a stench? Mr. Drew replied that it could be 100 tons of trash, or 50 tons, it depends on what comes in. That is the additional reason they are increasing the hours to better handle the extra waste coming in and getting it out. Mr. Benevento asked if that is that an estimate on truck trips, it could be higher or lower? Mr. Drew replied yes it is an estimate of truck trips, it could be more or less.

Daniel Bennett, Selectman, stated if a truck comes in with ½ trash and ½ recyclables, that particular truck would only have to come in once but it would be two trucks because only ½ of it is trash. Mr. Daniel Bennett stated that there is a Board of Health regulation that prohibits trash pick-up before 7:00 a.m.

Lisa Ferry, lives at Lot 73 stated that she looked up vegetative buffer and came up with nothing. She added that the trucks are waiting for the weigh station to open before hours. She stated that it is a danger for the children that have to get on the bus if trucks are in before 7:00 a.m. Lisa Ferry stated that they came before the Danvers BOH and got approval for a bus stop on East Coast Road because it was a terrible danger picking up the children on Route 1.

Dr. McLaughlin stated that the walls on the highway could possibly be a better choice for a buffer. Mr. Drew stated yes he is thinking 8 foot high wall, a high impermeable barrier; they will look into this and see if they have the room. It may not be the same exact walls that MA highway uses but maybe they can find something similar.

Mr. Shea stated that the Board of Health is responsible for determining a danger to health safety in the environment and needs to know specifics on this buffer. If the board is being asked to approve this, they need to have the ability to see the proposal and hear this, for them to make a decision based on the evidence tonight. Mr. Shea stated that they need to see the specs on the buffer and they could condition the decision on this.

Mr. Mirandi stated that we are new at this, when they last spoke it was mentioned that some sort of barrier was proposed. Mr. Mirandi feels that they do need to see the specifics on this barrier. Mrs. Swindell believes and might ask Daniel Bennett if they have buffer bylaws through the Planning Board to make the property more aesthetic and alleviate noise. Mr. Stephen Monaco stated that the Mobile Home Park is located in Peabody. Lisa Ferry added that the line where the buffer would be put could be either on the Danvers or Peabody side, this needs to be looked into further and see if they need to contact Peabody too. Lisa Ferry stated that she knows that they had to come before the Town of Danvers for the bus stop because it is on East Coast Road in Danvers.

Mr. Drew stated they do not have a problem with the request; he would like some options or flexibility due to the limited real estate space. It is commercial property and they will have to investigate further to determine their options and whose property this buffer would be placed upon. Mr. Drew added that there is very limited space there. Mr. Stephen Monaco added approximately 3 feet of space.

Mr. Benevento asked the applicant to explain where the proposed buffer is it going to be put, on the left side or the right side. Mr. VanLaarhoven explained on the map where it would be. Mr. Benevento asked if they would be open to extending the buffer around his property? Mr. Drew stated that they can look into that but he believes that property is owned by the shopping mall. Mr. Benevento stated that if you have increased volume, it will cause problems getting into their property; this will be the proposed entrance and exit to his land that he plans on developing. This new neighborhood will go in through this road. Mr. Stephen Monaco stated the layout of the property. He stated that there is Harbor Freight, then an empty parking lot (owned by the shopping mall) that was given to the Town of Danvers. When it was given to the Town of Danvers, people were dumping in this lot and they put barriers to stop them. There is the shopping mall, and then a hill with trees and the rock wall is on the right side of the wall.

Mr. Mirandi stated that he can go in and inspect anytime. Dr. McLaughlin asked if the road could be moved over away from the property line? Mr. Mirandi stated that before they can recommend them to go any further, they would like specifications of the buffer. Mr. Drew stated that he would like to go perform a survey and come back with plans and submit them to the Board. He also added that they would like to propose that they will work with Town of Danvers Department of Public Works and figure what would be their options for a visual buffer and submit it before the Board of Health. Mr. Kowalski asked about the possibility of moving the wall.

Mr. Stephen Monaco stated that to solve this problem, they could make a road where the glass building is on Route 114, it is very close to Rosewood Drive. He added why can't a road be made where the glass building is on Route 114, it is right where the waste is being dumped anyhow. Maybe that is feasible. He knows it is a huge expense. Mr. Drew stated the reason they were looking at a buffer is to block the abutters from having to see the operation. Lisa Ferry stated that yes, they would like a visual buffer. If you restricted East Coast Road to brush only and say no trucks on East Coast Road, that would be less truck traffic and more resident traffic.

Mr. Shea stated his reaction to this suggestion is not a re-design of the facility. It is for the proposed modifications only. Mr. Mirandi stated it is not reasonable, it is a good idea but it is not feasible. The board only has 45 days to render a decision.

Mr. Shea's idea is to approve this conditioned upon development of screening/buffer in a particular location. There should be conversations with DPW and the BOH agent and submit a certified plan and have the added component of citizen involvement. Mr. Mirandi stated that they could have a sub-committee meet and work on this. Mr. Mirandi stated they should approve this subject to it to have it reviewed and approved before the increased tonnage is affected.

Mr. Shea wants to make sure we know that it is not just going to be vegetated. Within 45 days you have to have this complete. Mr. Shea stated that you can approve a process that involves a citizen input and under the approval it says the increases will not take effect until the plans for the buffer are approved. Mr. Mirandi stated they were not aware of any other houses going in as Mr. Benevento has stated.

Mr. VanLaarhoven stated that it is common that conditions are based upon things and it gives you time to develop thoughtful plans. They will require your decision and will carry that forward.

Mr. Shea stated that he would like to hear the testimony.

Mr. Stephen Monaco, Lot 42, read his letter.

“Dear Selectmen and Selectwomen,

The Mobile Estates Mobile Home Park is located at 286 Newbury Street, Peabody, Massachusetts and consists of over 176 mobile homes, containing men, women, and children of all ages, including many elderly members and families. This property directly abuts the Covanta Waste Station in Danvers and the plant’s operations significantly affect over fifty of the homes residing in the park. The Mobile Estates Tenants Association writes to formally oppose the pending proposal to expand the operating hours of the Covanta Waste Station in Danvers, Massachusetts.

Our first reason for voicing our opposition is the significant safety risk that this change would pose to our children. Many years ago, our park fought to find a safe location for our students to board their morning school bus. Previously, they were required to board the bus on the very busy, and dangerous, Route 1. After much debate, a plan was finally worked out that allowed the students to board the bus on East Coast Road. The lack of traffic at this location and the excellent visibility allowed the bus stop to serve as a safe route for our students to utilize each morning and afternoon, while also allowing the school bus operators to safely merge onto Route 1. The proposed changes to the Covanta Waste Station would reverse all our efforts to provide a safe spot for the students to board, as it would increase the traffic and open up the risk students would face when arriving home. Under the current operating hours, the plant closes at 2:45 p.m., prior to the students arriving home. If you vote to expand the hours each day, then our students will face the risk of potentially getting stuck by a waste truck not only in the early mornings, but in the afternoons as they head home as well. It further presents a significant hazard for school bus operators to navigate around to ensure children’s safety. These risks are significant, and one which our parents greatly worry about.

Further, the proposed plan would also significantly affect our tenant’s rights to the quiet enjoyment of their property. The proposed plan would expand the plants operating hours to include Saturdays until 4:00 p.m. Many of our residents’ homes directly abutt East Coast Road. Every time a Covanta truck travels down this roadway, our residents’ homes rumble and shake as if they are experiencing an earthquake. The noise is incredibly disrupting. Despite the plant not opening until 7:00 a.m., there is already a problem with trucks arriving as early as 5:00 a.m. and sitting, trucks idling, and waiting for the plant to open. Expanding these hours to include Saturdays would significantly increase the disruptions our residents face. No longer would they be able to enjoy a peaceful Saturday’s with family as they have grown accustomed to, but now will be faced with the roar of truck engines six days a week. We ask, is this something you would want in your own backyards?

Testimony by Stephen M. Monaco
Mobile Estates Tenants Association”

He was sworn in.

Lisa Ferry was sworn in. Lisa Ferry stated that the odor is very bad over there. Mr. Benevento agrees if they get the increase in tonnage, the smell will be even worse.

Pete Clement 9 Jersey Lane, Town Meeting member stated that you are going to increase tonnage and the time and another day to run the facility. Is it all for Danvers or other communities? Mr. Drew stated that it is not limited to Danvers. Pete Clement asked who is going to benefit? Will it benefit the Town of Danvers? Mr. Drew stated that they believe the added ability to bring in the recyclables, will benefit the Town of Danvers, because they could just come to their facility and load up on one truck to bring to the

final destination. Pete Clement asked does opening on Saturday benefit Danvers residents? Mr. Drew stated yes, it gives them another day to be able to come to the facility, most people work weekdays. Mr. Drew also stated that they will staff it. Pete Clement asked why do you staff it? Mr. Drew replied first of all it is for security and they have to keep track of tonnage under DEP limits. Dr. McLaughlin stated if he went on sat, you still have to go over the scale to get accounted for, the waste is shipped out.

Pete Clement stated there is no benefit to the Town of Danvers and you will be having more trucks going in and out. Pete Clement asked if the truck count includes residents? Mr. Drew replied no, this is not counting residents. Mr. Drew stated that they currently do operate on some Saturdays when a holiday falls during the week. Pete Clement stated that currently the residents have to keep their kids in the house 5 days a week during these hours, now you are asking them to keep their kids in the house until 4 and add a 6th day. He doesn't think it a good thing for these neighbors.

Mr. Shea asked if there is a financial arrangement with the Town of Danvers? Mr. Drew stated that there is a contract, but he doesn't know exactly what it is composed of. Mr. Shea asked is there a benefit to the town for increased tonnage. Bob Lee stated that there is not. Bob Lee added if other municipalities used it, there would be a fee.

Mr. Stephen Monaco stated that there are no idle time signs there now and in the winter time, the trucks have to idle and if they shut them off, they cannot restart. They technically have to keep the trucks running. The idle time could be a problem. In the summer heat, they keep the trucks running with the air conditioner. This is just another thing to consider. Mr. Shea stated that enforcement of idle time is a problem for DEP that they are working on.

Mr. Benevento asked if it would be safe to say that you will be making money off of the towns that will be using this, will this be increasing money for the Town of Danvers? He added that the Town found an acceptable contract that must have benefited them. Mr. Mirandi stated that lease can be looked into. Mr. Mirandi stated that they have had some complaints and they notice trucks coming out of the landfill area, instead of going the way they are intended to go. They cut through Danvers Crossing and the Planning Department said that does not sound good. Mr. Drew replied that they don't control all of the operations of that site. Mr. Mirandi stated fair enough.

Mr. Shea would like to offer closing instructions. He stated within 45 days from tonight, the Board of Health must issue a decision or an amendment. There are several issues that deal with nuisance and air quality. The decision must be made on or about October 21st, 2013. Mr. Shea stated that the Board has the power to issue the decision and put conditions. Mr. Shea stated that their decision has to be solely based on information. Closing oral arguments can be made. He stated that the Board can waive that requirement. He stated that briefs can also be submitted, facts and law that can help guide the board. The briefs would have to be submitted before you deliberate. The parties agreed that they do not want to do closing arguments.

Mr. VanLaarhoven stated that they did examine the site assignment criteria discussion. Dr. McLaughlin asked if there were any complaints made to the City of Peabody? Mr. Mirandi stated if there were, they would have notified the Danvers Board of Health.

There is no interest in either party submitting briefs.

Mr. Shea stated that they have this record. The Board should deliberate and vote in a public meeting and write a decision. They must discuss evidence and take a vote on the site assignment modification. Mr. Drew asked if the regularly scheduled Board of Health meetings satisfy their requirement for deliberation. Mr. Shea said yes. Mr. Mirandi stated that he is in charge of drafting this decision? Mr. Shea replied that either the applicant or the Board can provide a suggested draft decision.

Mr. Shea stated that yes, the applicant can propose a draft decision but the Board must deliberate on the evidence. Mr. Shea stated that the final decision has to be in writing and signed by all of the Board Members. Mr. Shea stated that they also must provide a statement of reasons and how they meet the criteria. Mr. She also stated that the Board also has the ability to have Town Counsel review the decision or you can hire special counsel to do it. Mr. Shea stated that lastly, the notice of the decision must be published in the paper within 7 days of the decision being made.

Mr. Stephen Monaco asked what happens if decision is not done within 45 days. It is a violation but you have to go to court and issue an Order at that point.

Mr. Mirandi asked if you they will ever see Mr. Shea again. Mr. Shea replied no.

Mr. VanLaarhoven stated if it would please the Board, they will be happy to put together or give you other examples of decisions. Mr. Shea replied that the only problem with a model one is that one shoe doesn't fit all.

Mr. Kowalski wants the screening done and odor control considered. Mr. Shea stated you do have authority to condition the odor control also.

Mr. Benevento stated how do you quantify the tonnage? Mr. Mirandi stated that there is no case law, there is no technical way to measure odor except there are cases dealing with complaints about fisheries, and the pigs. Mr. Mirandi stated that odor control is difficult. Someone asked if the odor is coming from the solid waste? Mr. VanLaarhoven stated that he would have to look at the site. Mr. Drew stated that they dug up the area to put the system to collect the fumes from the decomposing waste.

Mr. Drew stated that it was possibly coming from the construction of the system when they dug up the area.

Mr. Stephen Monaco asked if they can be notified of the next meeting on this? Mr. Mirandi stated that they will meet the first Thursday of the month. If there is a change, he will let them know. Janell Powers handed out a pad of paper to have the people write their names and a way to be contacted of the next meeting on this.

Mr. Shea stated that he would like to thank the Board in advance for tonight for all of the work that they have done on this in order to make this go smoothly. Mr. Shea stated that he was very pleased at how this hearing went tonight. He also wanted to thank the public for their participation. They have been very attentive and he feels that they flushed out the issues that need to be evaluated. Mr. Shea also thanked Janell Powers for taking the minutes on the record.

Mr. Kowalski motioned to close this public hearing. Mrs. Swindell seconded. All were in favor and the motion carried.